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Attorney for Plaintiff,
ALEXANDER WILD,

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION**

ALEXANDER WILD,

Plaintiff,

v.

UNIQUE ENVIRONMENTAL CORP.
d/b/a/ uniqueenv.com,

Defendant.

Case No. _____

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FROM
COPYRIGHT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff, Alexander Wild, for his Complaint against Unique Environmental Corp. d/b/a/ uniqueenv.com, alleges as follows:

INTRODUCTION

1. Alexander Wild (hereinafter “Plaintiff”), by Plaintiff’s attorneys, brings this action against Unique Environmental Corp. d/b/a/ uniqueenv.com (hereinafter “Defendant”), with regard to the unlawful use of a copyrighted image

owned by Plaintiff.

2. For the purposes of this Complaint for Damages, unless otherwise indicated, “Defendant” includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives and insurers of Defendant named in this caption.

JURISDICTION AND VENUE

3. This is a civil action seeking damages and injunction relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, whereby the Defendant violated Plaintiff’s exclusive rights as copyright owner pursuant to 17 U.S.C. §§ 106 and 106A.

4. This Court has subject matter jurisdiction over Plaintiff’s claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

5. This Court has personal jurisdiction over Defendant because Defendant is incorporated within the State of New York, conducts business within the State of New York, Defendant’s acts of infringement complained of herein occurred in the State of New York, and Defendant caused injury to Plaintiff within the State of New York.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to Plaintiff’s claim occurred in this judicial district. Alternatively, venue is also proper pursuant to 28 U.S.C. §

1400(b) because the Defendant resides and has a regular and established place of business in this judicial district.

PARTIES

7. Plaintiff Alexander Wild resides in the City of Austin in the State of Texas and is a professional photographer by trade.

8. Plaintiff is the sole author and exclusive rights holder to an original image of a South American rover ant known as *Brachymyrmex patagonicus* (the “Image”) pursuant to 17 U.S.C. §§ 101 and 106.

9. Plaintiff is informed and believes, and thereon alleges, that Defendant is business located within the City of Johnson, in the State of New York with a business address of PO Box 131 Johnson, NY 10933.

10. Plaintiff is informed and believes, and thereon alleges, that Defendant unlawfully published Plaintiff’s Image without Plaintiff’s express or implied authority.

FACTUAL ALLEGATIONS

11. Plaintiff is a professional photographer by trade. Plaintiff holds a Ph.D. in Entomology from the University of California, Davis and is Curator of Entomology at The University of Texas, Austin. Plaintiff’s has licensed or sold his photographs to dozens of major media outlets such as National Geographic, The New York Times, The Washington Post, Smithsonian, Discovery Channel

BBC Wildlife, Popular Science, and USA Today.

12. A library of Plaintiff's work, including the Image, is available for licensing and/or purchase by the general public through Plaintiff's website <http://www.alexanderwild.com/>.

13. Additionally, Plaintiff has written works with respect to science photography and is the founding instructor of the BugShot Insect Photography Workshops. Plaintiff's livelihood is dependent on receiving compensation for the photographs he produces.

14. Plaintiff is the sole author of the original Image. A true and correct copy of Plaintiff's original Image attached hereto as Exhibit A.

15. By virtue of his sole authorship, Plaintiff has complete ownership rights and copyrights to the Image.

16. Plaintiff has registered the Image with the United States Copyright Office under registration number VAu 979-301.

17. On information and belief, Defendant owns and operates the commercial website <http://uniqueenv.com/>.

18. On or about May 27, 2016, Plaintiff discovered that Defendant used Plaintiff's Image to advertise Defendant's services on Defendant's website. A true and correct copy of Defendant's infringing use of Plaintiff's Image is attached hereto as Exhibit B.

19. Plaintiff did not consent to authorize, permit, allow in any manner the use of the Image by Defendant.

20. Plaintiff is informed and believes that Defendant used Plaintiff's copyrighted Image without his permission and that it published, communicated, posted, publicized and otherwise held out to the public for commercial benefit, the original and unique Image of Plaintiff without Plaintiff's consent or authority, and acquired monetary gain and market benefit as a result.

21. On information and belief, Defendant knew that it did not possess any rights in the Image and that its use of the Image was unauthorized.

22. On information and belief, Defendant's use of the Image was deliberate and willful.

23. Defendant used the Image to promote the Defendant's website despite its knowledge that the Image is subject to copyright.

24. Plaintiff did not consent to the use of his Image for Defendant's commercial gain.

25. Plaintiff notified the Defendant of the infringement but Defendant was not interested or willing to resolve the matter amicably with Plaintiff.

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FIRST CAUSE OF ACTION

COPYRIGHT INFRINGEMENT

Title 17 of the United States Code

26. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

27. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original Image.

28. Plaintiff is informed and believes and thereon alleges that the Defendant willfully infringed upon Plaintiff's copyrighted Image in violation of Title 17 of the U.S. Code, in that it used, published, communicated, benefited through, posted, publicized, and otherwise held out to the public for commercial benefit, the original and unique Image of the Plaintiff without Plaintiff's consent or authority, and acquired monetary gain and market benefit as a result.

29. On information and belief, Defendant's infringement was deliberate and willful.

30. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or statutory damages in an amount up to \$150,000.00 pursuant to 17 U.S.C. § 504(c).

31. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as

reasonable attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

32. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- For statutory damages against Defendant in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c);
- For general and special damages against Defendant according to proof together with interest thereon at the maximum legal rate;
- For costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- For an injunction preventing Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and
- For any other relief the Court deems just and proper.

Dated: October 12, 2017

Respectfully submitted,

/s/ Rayminh L. Ngo
Rayminh L. Ngo, Esq.
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Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Alexander Wild, hereby demands a trial by jury in the above matter.

Dated: October 12, 2017

Respectfully submitted,

/s/ Rayminh L. Ngo

Rayminh L. Ngo, Esq.

NY Bar No. 519997

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